IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

RSA.No. 1094 of 2006()

AS.202/2001 of ADDL. DISTRICT COURT, THALASSERY
OS.263/1998 of PRL.S.C.,THALASSERY

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APPELLANT/APPELLANT/PLAINTIFF:

M.P.SIVADASAN, S/O.MEENAKSHY AMMA,
MANDECHERI HOUSE, CHAVASSERY AMSOM,
ULIYIL DESOM, THALASSERY TALUK.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS: RESPONDENT/RESPONDENT/DEFENDANT:

P.D.JOYI, S/O.DEVASSIA,
DRIVER, PARAMBATH, PERUVANPARAMBA DESOM,
IRITTY.

BY

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

R.S.A.No.1094 OF 2006

Dated this the 30th day of November, 2006

JUDGMENT

The plaintiff in a suit for recovery of money is the appellant. He alleged that the defendant borrowed an amount of Rs.50,000/- and on account of the failure to repay it in time, he suffered loss of another Rs.54,000/- and accordingly sued for recovery of the amount lent, as also the damages. The defendant contended that he was the driver of a taxi of Manoharan, the brother of the plaintiff, and that Manoharan, who had different transactions as a money lender, was also a document writer and that the defendant is made a scapegoat by making false allegations. The courts below appreciated the oral and documentary evidence on record and found against the case of the plaintiff. The lower appellate court affirming the verdict of the trial court relied on Ext.B3 letter issued by the plaintiff to the defendant which clearly shows that there was not even a chance of any transaction as pleaded by the plaintiff. The appreciation of the oral and documentary evidence is in accordance with law

and cannot be characterised as perverse or unreasonable. No substantial question of law arises for decision in this second appeal. Hence the second appeal fails. It is dismissed in limine.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.